

### Remarks

Claims 1-7, 10-16, 19 and 22-25 are pending. Claims 1-7 and 11-16 have been withdrawn, claims 8-9, 17, 18, 20 and 21 canceled, and new claims 22-25 added.

Applicants have amended the Specification to correct typographical and formality errors. In particular, Applicants have added a statement on page 1 to recite the prior application from which the present application claims priority. Applicants have also amended various paragraphs on page 4 of the Specification to correct typographical errors. The amendments are supported at least by Figures 1A-1C of the drawings. In addition, Applicants have amended the paragraph starting with "FIG. 1A shows" on page 12 to correct typographical errors. Finally, Applicants have amended the paragraph starting with "In Rat" on page 17 to replace the term "FIG. 2B" with "FIG. 1C". The amendment is supported at least by Figure 1C of the drawings.

Claims 1-7, 10-16, 19 and 22-25 remain pending in the present application. Claims 1-7 and 11-16 have been withdrawn from consideration. By this amendment, claims 8-9, 17-18 and 20-21 are herein canceled without prejudice or disclaimer. Applicants have amended claims 10 and 19 to recite "non-naturally occurring." The amendment is supported at least by the Specification from page 13, line 9, to page 14, line 29. In addition, Applicants have amended claims 10 and 19 to replace the phrase "an amino acid" with "the amino acid sequence". Applicants have also added new claims 22-25. Claims 22-25 are supported at least by the Specification from page 13, line 9, to page 14, line 29.

Applicants respectfully submit that the amendments to the Specification and claims do not introduce new matter. Accordingly, entry of the amendments is respectfully requested.

### Formal Matters

On page 2, the Office Action requires Applicants to make the necessary reference to the prior application. Applicants have amended the first page of the Specification, as per the Examiner's request, to add the statement "The present application is a division of U.S. Patent Application Serial No. 09/178,109, filed October 23, 1998, now U.S. Patent No. 6,395,477." Applicants respectfully submit that this amendment overcomes the Examiner's concern.

Since the reference to U.S. Patent Application Serial No. 09/178,109 was made in the Application for Transmittal filed together with the present application, Applicants respectfully submit that the fee under 37 CFR § 1.78(a)(3) does not apply to the present

Response to Office Action--page 7 of 10

application. Should any fees, e.g., per § 1.78(a)(3) or another, be deemed necessary to effectuate this amendment, Applicants provide below the requisite authority to charge.

#### **Claim Objections and Rejections Under 35 U.S.C. § 101 and § 112**

On page 2 of the Office Action, claims 9, 10, 18 and 19 under 35 U.S.C. § 101 were rejected as being directed to polypeptides that exist naturally and, therefore, are not appropriate subject matter for patenting. Applicants have canceled claims 9 and 18 without prejudice or disclaimer. Applicants have also amended claims 10 and 19 to recite "non-naturally occurring." Applicants respectfully submit that the above amendments obviate the Examiner's rejection of claims 9, 10, 18 and 19. Withdrawal of the rejection is therefore respectfully requested.

On page 3 of the Office Action, claims 8-10 and 17-21 were rejected as being indefinite under 35 U.S.C. § 112, second paragraph. Applicants respectfully traverse the rejection.

Applicants have canceled claims 8, 9, 17, 18, 20 and 21 without prejudice or disclaimer. Applicants have also amended claims 10 and 19 to replace the phrase "an amino acid" with "the amino acid sequence." Applicants respectfully submit that these amendments overcome the Examiner's rejection of claim 8-10 and 17-21. Withdrawal of the rejection is, therefore, respectfully requested.

On pages 3-5 of the Office Action, claims 9, 18, 20 and 21 were rejected under 35 U.S.C. § 112, first paragraph, for nonenablement and lack of written description. Since Applicants have canceled claims 9, 18, 20 and 21, thereby rendering the rejection moot, withdrawal of the rejection is, therefore, respectfully requested.

#### **Rejections Over Prior Art**

On pages 5-6 of the Office Action, claims 9, 18, 20 and 21 were rejected under 35 U.S.C. § 102(b) as being anticipated by Dixon *et al.* Since Applicants have canceled these claims, thereby obviating the Examiner's rejection, Applicants respectfully request that the § 102(b) rejection be withdrawn.

Claims 9, 18, 20 and 21 were also rejected under 35 U.S.C. § 102(e) as being anticipated by Brill *et al.* As noted above, these claims are canceled. Accordingly, Applicants respectfully request that the § 102(e) rejection be withdrawn. In addition, the § 102(e) date for Brill *et al.* is February 2, 1999, which is after the priority date of the present

Response to Office Action--page 8 of 10

application (October 23, 1998). Therefore, Applicants respectfully submit that *liril et al.* is an improper § 102(e) reference.

Based on all of the above reasons, Applicants respectfully request that the Examiner withdraw the rejections under 35 U.S.C. § 102 (b) and (e).

Response to Office Action--page 9 of 10

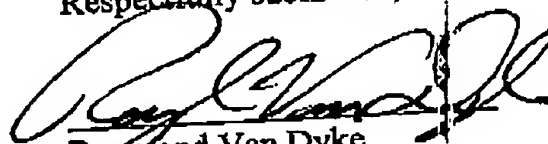
Conclusion

In view of the above amendments and remarks, Applicants respectfully submit that the outstanding rejections have been overcome and the case is now in condition for allowance. Applicants, accordingly, respectfully request that a timely Notice of Allowance be issued in this case. Although Applicants believe that no fee is due, the Commissioner is hereby authorized to charge any payment deficiency to deposit account number 19-2380 (031896-073100).

Should the Examiner have any further suggestions or observations that would facilitate further prosecution or allowance of this case, the Examiner is invited to contact Applicants' representative designated below.

Date: September 1, 2004

Respectfully submitted,

  
Raymond Van Dyke  
Reg. No. 34,746

Nixon Peabody LLP  
Suite 900  
401 9<sup>th</sup> Street  
Washington D.C. 2004-2128  
Tel: (202) 585-8250  
Fax: (202) 585-8080

Response to Office Action--page 10 of 10

**This Page is Inserted by IFW Indexing and Scanning  
Operations and is not part of the Official Record**

**BEST AVAILABLE IMAGES**

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☐ **BLACK BORDERS**
- ☐ **IMAGE CUT OFF AT TOP, BOTTOM OR SIDES**
- ☐ **FADED TEXT OR DRAWING**
- ☐ **BLURRED OR ILLEGIBLE TEXT OR DRAWING**
- ☐ **SKEWED/SLANTED IMAGES**
- ☐ **COLOR OR BLACK AND WHITE PHOTOGRAPHS**
- ☐ **GRAY SCALE DOCUMENTS**
- ☐ **LINES OR MARKS ON ORIGINAL DOCUMENT**
- ☐ **REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY**
- ☐ **OTHER:** \_\_\_\_\_

**IMAGES ARE BEST AVAILABLE COPY.**

**As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.**